THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 25193 of 2006

Dated: 04-12-2006

Between:

Sri Venkateswara Trading Company
Rep., by its Managing Partner,
Jamuna Arcade, Jambagh,Hyderabd and two others.

..... PETITIONER

AND

The Lakshmi Vilas Bank Limited,
Rep., by its Brach Manager,
Vijayawada.

.....RESPONDENT

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 25193 of 2006

O R D E R:

This writ petition is filed seeking a declaration that the action of the respondent-Bank in not paying back the amount collected from the petitioners is arbitrary and illegal and for consequential order to restitute an amount of Rs.35,00,000/- along with accrued interest thereon @ 17 ½ % with quarterly rests to the petitioners forthwith.

As a matter of fact, the petitioners earlier filed W.P.No.18296 of 2006 with the very same relief and this Court, having taken note of the fact that I.A.No.902 of 2003 in O.A.No. 991 of 1997 filed by the petitioners is pending before the Debt Recovery Tribunal, Visakhapatnam, disposed of the writ petition with a direction to the Tribunal to dispose of the said application within a period of three months. Pursuant thereto, the Tribunal, having heard both the parties, passed an order dated 20-02-2006 directing the respondent herein to keep the amount of Rs.35,00,000/- in a fixed deposit till the O.A is disposed of. The Tribunal below, while passing the said order, had taken note of the fact that the petitioners are not disputing the fact that they had availed the loan from the respondent-Bank. Accordingly, it was held that the interest of both the parties would be safeguarded if the amount is kept in a fixed deposit the disposal of which would be considered while deciding the main O.A.

Having heard the learned counsel for the petitioners in detail, I am unable to held that the said order, suffers from any infirmity warranting interference by this Court.

However, learned counsel for the petitioners vehemently

contended that while availing loan from the respondent-Bank, the petitioners have furnished security by creating mortgage on immovable property and therefore, there is no justification in directing to keep Rs.35,00,000/- in fixed deposit till the O.A. is decided.

The said contention was never raised before the Tribunal.

Whether the securities furnished by the petitioners are sufficient to meet the claim in the O.A. in case it is decreed or not is a question to be decided by the Tribunal.

Hence, though a writ of mandamus as prayed for cannot be granted, the petitioners are granted liberty to move an appropriate application before the Tribunal for return of the immovable property securities furnished by them. If any such application is made, the Tribunal shall consider the same and pass appropriate orders in accordance with law after hearing both parties.

Writ petition is accordingly disposed of . No costs.

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G. ROHINI, J

Dated: 04-12-2006

Note: Issue C.C. in one week

B/o

KLP